

UNITED STATES DISTRICT COURT

for the

Middle District of North Carolina

United States of America

v.

Alfredo Arnoldo GALLARDO

a.k.a. Alfredo Arredondo Gallardo, Alfredo A.

Gallardo, Alfredo Arnoldo Gomez, Alfredo Arnoldo

Gomez-Gallardo, and Nelson Eugenio Eguizabal

Defendant(s)

Case No. 1:15-mj-207-1

CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date(s) of June 24, 2015 in the county of Rockingham in the
Middle District of North Carolina, the defendant(s) violated:

Code Section

8 USC Section 1326(a) & (b)(2)

Offense Description

Being found in the United States while an alien being previously removed or deported from the United States subsequent to a conviction for commission of an aggravated felony without the express consent of the Attorney General or the Secretary of the Department of Homeland Security to reapply for admission to the United States, in violation of Title 8, United States Code, Sections 1326(a) & (b)(2).

This criminal complaint is based on these facts:

☒ Continued on the attached sheet.



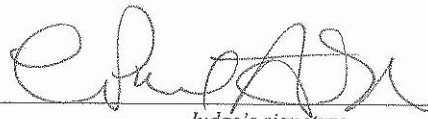
Complainant's signature

Erin North, Deportation Officer

Printed name and title

Sworn to before me and signed in my presence.

Date: 07/02/15



Judge's signature

City and state: Greensboro, North Carolina

L. Patrick Auld, United States Magistrate Judge

Printed name and title

IN UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

AFFIDAVIT

I, Erin North, Deportation Officer, U.S. Immigration and Customs Enforcement, United States Department of Homeland Security, being duly sworn, state that:

1. Your Affiant is a graduate of the Federal Law Enforcement Training Center (FLETC) and has been employed as a federal officer of Immigration and Customs Enforcement (ICE) for nine years, during which time she has conducted numerous investigations relating to administrative and criminal violations of the Immigration & Nationality Act (INA).

2. The information contained in this affidavit is based on your Affiant's personal participation in this investigation and from information provided to your Affiant by other law enforcement officers. This affidavit is submitted for the limited purpose of establishing probable cause to support the issuance of a criminal complaint against Alfredo Arnoldo GALLARDO, also known as Alfredo Arredondo Gallardo, Alfredo A. Gallardo, Alfredo Arnoldo Gomez, Alfredo Arnoldo Gomez-Gallardo, and Nelson Eugenio Eguizabal [hereafter referred to as GALLARDO]. Your Affiant has not included each and every fact known to her concerning this investigation but has set forth only those facts believed to be necessary for said purpose.

3. I respectfully assert that sufficient evidence exists to support a probable cause finding that GALLARDO has violated Title 8, United States Code, Sections 1326(a) and (b)(2) (illegal re-entry into the United States by an alien who was previously removed from the United States subsequent to conviction for an aggravated felony). GALLARDO did not obtain the consent of the Attorney General of the United States prior to March 1, 2003, nor the Secretary of the Department of Homeland Security after February 28, 2003, to reapply for admission to the United States after said removal.

4. On June 24, 2015, GALLARDO was arrested by ICE officers in Rockingham County, North Carolina, at his residence in Eden, determined to be unlawfully present in the United States, and transported to the Forsyth County Jail in Winston-Salem, North Carolina, for further processing and detention. ICE officers submitted GALLARDO's fingerprints through the Integrated Automated Fingerprint Identification System (IAFIS), which is connected to the National Crime Information Center (NCIC), and the automated biometric identification system used by ICE termed IDENT. The fingerprint-based reports revealed that he was the subject of FBI number XXX01VA4 and Immigration A-file numbers XXX-955-805 and XXX-068-886. His immigration records indicated that he was previously removed from the United States without record of legal re-entry.

5. Your Affiant conducted criminal justice database searches and reviewed Immigration A-file numbers XXX-955-805 and XXX-068-886 relating to GALLARDO and discovered that:

- a) his name is Alfredo Arnoldo GALLARDO;
- b) he is also known as Alfredo Arredondo Gallardo, Alfredo A. Gallardo, Alfredo Arnoldo Gomez, Alfredo Arnoldo Gomez-Gallardo, and Nelson Eugenio Eguizabal;

- c) he is citizen of El Salvador, by virtue of birth on September 01, 19XX, and that he has also used April 15, 1969, and April 10, 1974, as dates of birth;
- d) he was assigned FBI number XXX01VA4 and SID numbers CAXXX49383 and VAXXX6161E;
- e) on December 15, 1993, he applied for an immigration benefit under the name Alfredo Arnaldo Gallardo and date of birth September 01, 1974, and included an El Salvadorian birth certificate substantiating those particulars with his application. He was subsequently issued A-file number XXX-955-805;
- f) on June 27, 1994, that application for the immigration benefit was denied;
- g) on August 19, 1994, he was placed into deportation proceedings via service by certified mail of agency form I-221 Order To Show Cause and Notice of Hearing;
- h) on January 17, 1995, he was ordered deported *in absentia* from the United States to El Salvador by an Immigration Judge in Los Angeles, CA;
- i) on December 04, 1995, he was convicted in the Superior Court of Los Angeles - Superior East Judicial District, County of Los Angeles, State of California for two counts of Lewd Acts with Child under 14, in violation of California Penal code 288(A), and sentenced to three-hundred-sixty-five (365) days jail and five (5) years formal probation under case number KA02898;
- j) on November 21, 1996, he was convicted in Long Beach, California, Municipal Court for Disorderly Conduct: Prostitution, in violation of California Penal code 647(B), and sentenced to three (3) days jail and twelve (12) months of probation under case number 6LM12661;
- k) on November 04, 1998, he was encountered and arrested by INS Agents at/near Los Angeles, California;
- l) on February 20, 1999, agency form I-205 Warrant of Removal/Deportation was executed by including his fingerprint, signature, and photograph, and GALLARDO was removed from the United States to El Salvador, by air, at El Paso, TX, being advised prior to removal that he could not enter, attempt to enter, or be found in the United States at any time without the express consent of the Attorney General of the United States;
- m) on June 27, 1999, he was encountered and arrested by the Border Patrol subsequent to his apprehension by the Holtville, California, Police. He stated to Border Patrol Agents that his name was Beto Menjivar and claimed Mexican citizenship;
- n) on June 28, 1999, a criminal complaint was filed against Alfredo Arnaldo GALLARDO in the United States District Court Southern District of California for Deported Alien Found in the United States, in violation of Title 8, United States Code, Section 1326. Case number 99MG8625 (also recorded as 2:99MJ08625-JFS-1). Order to dismiss the criminal complaint without prejudice on motion by Government was filed on July 26, 1999;
- o) on August 03, 1999, he was served agency form I-871 Notice of Intent/Decision to Reinstate Prior Order by an immigration officer in El Centro, CA;
- p) on August 20, 1999, agency form I-205 Warrant of Removal/Deportation was executed by including his fingerprint, signature, and photograph, and GALLARDO was removed from the United States to El Salvador, by air, at Houston, Texas, being advised prior to removal that he could not enter, attempt to enter, or be found in the United States at any time without the express consent of the Attorney General of the United States;
- q) on August 23, 2001, he filed agency form I-821 Application for Temporary Protected Status (TPS) under the name Nelson E. Eguizabal and date of birth April 15, 1969, and

- included an El Salvadorian birth certificate substantiating those particulars with his application. As a result, he was issued a second A-file number XXX-068-886;
- r) on May 19, 2004, his initial application for TPS was denied and the associated benefits were withdrawn and/or revoked by the Service. Subsequent applications were also denied;
 - s) on April 08, 2009, he was granted Prayer for Judgment in Rockingham County, North Carolina, District Court for Obtain Drivers License by Fraud. Court docket 2009CR000438;
 - t) on October 08, 2009, he was convicted in Henry County, Virginia, General District Court for DWI: 1st Offense, and sentenced to six (6) months jail, suspended. Court case number 089GT0900696900;
 - u) on October 08, 2009, he was convicted in Henry County, Virginia, General District Court for DWI: Refusal of Blood or Breath Test. Court case number 89GT0900697000;
 - v) on October 08, 2009, he was convicted in Henry County, Virginia, General District Court for Resisting Arrest, and sentenced to twelve (12) months jail, with eleven (11) months and twenty-four (24) days suspended. Court case number 89GT0900697100.

6. On June 26, 2015, Your Affiant conducted record checks of immigration indices and was unable to locate any record that GALLARDO was granted permission by the Attorney General of the United States or the Secretary of the Department of Homeland Security to apply for admission to the United States after deportation/removal.

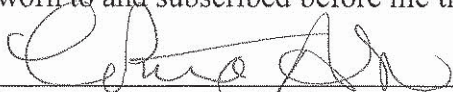
7. On July 01, 2015, Department of Homeland Security's Biometric Support Center – West Latent Print Examiner H.L. Wigington compared the known fingerprint impressions of GALLARDO taken by ICE officers on FD-249 fingerprint cards dated 6/24/2015, to the fingerprint impressions on agency form I-205 Warrant of Removal/Deportation executed 2/20/1999, at El Paso, Texas, to the fingerprint impression on agency form I-205 Warrant of Removal/Deportation executed 8/20/1999, at Houston, Texas, to the underlying aggravated felony Los Angeles, California, Sheriff's Office arrest tenprint card dated 9/05/1995, for Lewd or Lascivious Acts with Child Under 14 Years, and to the FD-249 fingerprint cards from A-file 70-955-805 dated 11/04/1998 and 6/28/1999, and determined that the fingerprints were made by the same individual.

8. Based on the above information your Affiant respectfully requests the issuance of a criminal complaint against Alfredo Arnolando GALLARDO.



Erin North, Deportation Officer
United States Immigration and Customs Enforcement

Sworn to and subscribed before me this 2nd day of July, 2015,



Honorable L. Patrick Auld
United States Magistrate Judge